

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-070935

05/30/2012

HONORABLE JOSE S. PADILLA

CLERK OF THE COURT
D. Berkland
Deputy

IN RE THE MARRIAGE OF
KIMBERLY M RUST

PATRICK S SAMPAIR

AND

NOAH R RUST

NOAH R RUST
7270 E 19TH ST
TUCSON AZ 85710

CONCILIATION SERVICES-NW
DANIEL G COOPER
ATTORNEY AT LAW
PO BOX 387
COEUR D'ALENE ID 83816
JUDGE DANIEL MCGEE
700 BANK ST
WALLACE ID 83873

MINUTE ENTRY

Courtroom 122 – NWR

10:41 a.m. This is the time set for Hearing re: UCCJEA / Petitioner's Petition for Modification of Parenting Time, filed on September 19, 2011. Petitioner is present appearing telephonically, and is represented by counsel, Patrick Sampair. Defendant is present, appearing telephonically, and is represented by Idaho counsel, Daniel Cooper, who appears telephonically. Also present is Judge Daniel McGee, who also appears telephonically.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

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The Court notes that Respondent/Father is now residing in Tucson, AZ; therefore the UCCJEA conference may not be necessary.

Respondent/Father advises the Court that he now resides in Tucson, AZ.

There being no objection and good cause appearing,

THE COURT FINDS the need for a UCCJEA conference with the Court in Idaho has been rendered moot in view of the fact that Respondent/Father is now residing in Arizona.

IT IS ORDERED that Arizona will exercise on-going jurisdiction.

Counsel for Respondent/Father inquires as to whether Father has any objection to voluntarily dismissing the Idaho action.

Defendant states that he has no objection to the Court dismissing the Idaho action.

11:00 a.m. The Idaho Court indicates that it will now go off record that it will sign the Order dismissing the Idaho action.

Consistent with the findings stated on the record by the Court,

IT IS ORDERED reverting to the original order which granted the parties joint legal custody with Petitioner/Mother being the designated primary residential parent.

Discussion ensues between the Court and petitioner/Mother's counsel with regard to Petitioner/Mother's Petition for Modification of Parenting Time.

Counsel for Petitioner/Mother requests the above-captioned matter be referred to mediation.

There being no objection and good cause appearing,

POST-DECREE MEDIATION

IT IS ORDERED referring the parties to Conciliation Services for post-decree mediation of child custody and/or parenting-time issues. The parties shall comply with all instructions and directives issued by Conciliation Services.

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IT IS FURTHER ORDERED that each party must pay the **\$100 per party** fee at the Clerk of the Court filing counter, at least 30 days before the mediation. Each party must bring the receipt for payment or deferral to the mediation. Forms to request a fee deferral are available at the filing counter.

The Court inquires of Petitioner/Mother and Respondent/Father as to whether they are able to pay the \$100 payment, whereupon both parties request thirty days to pay their \$100 fee.

Good cause appearing,

IT IS ORDERED that both parties shall pay their **\$100 mediation fee on or before June 30, 2012.**

IT IS FURTHER ORDERED that both parties may appear telephonically at the time of mediation; however, the children shall appear in person for the child interview.

IT IS FURTHER ORDERED setting **Mediation** for **June 8, 2012 at 1:30 p.m.** and **Child Interview (only if no agreements are reached in mediation)** on **June 27, 2012 at 1:30 p.m.** in Conciliation Services at:

**Maricopa County Superior Court
Northwest Regional Court Center
14264 W. Tierra Buena
Surprise, Arizona 85374**

WARNING

IF YOU FAIL TO APPEAR AT THE MEDIATION AS ORDERED, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. IF YOU CANNOT ATTEND, YOU MUST REQUEST AND BE GRANTED PERMISSION FROM THE JUDGE IN YOUR CASE TO RESCHEDULE THE SESSION AT LEAST THREE FULL COURT DAYS BEFORE THE MEDIATION. IF AN AGREEMENT IS REACHED PRIOR TO YOUR APPOINTMENT DATE, YOU MUST SUBMIT A REQUEST TO THE JUDGE TO VACATE THE CONFERENCE AND WAIVE THE FEE IN ORDER TO AVOID FEE COLLECTION.

Discussion is held with regard to temporary parenting time.

Pursuant to the discussion held,

IT IS ORDERED affirming the designation of joint legal custody with Petitioner/Mother being the primary residential parent.

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IT IS FURTHER ORDERED Father shall have parenting time with the child commencing on Friday, June 15, 2012 at 6:00 p.m. and every other weekend thereafter.

LET THE RECORD REFLECT the Court advises the parties they are welcome to work out an alternative parenting plan; however, in the event the parties are unable to do so, they shall follow the orders set forth in this minute entry.

IT IS FURTHER ORDERED that neither parent shall remove the children from Arizona without the written permission of the other parent or the Court.

IT IS FURTHER ORDERED that the children shall not be relocated outside of Pima County or Cochise County without the written consent of the other parent or the Court.

EVIDENTIARY HEARING SET

IT IS ORDERED setting the above-captioned matter for **Evidentiary Hearing re: Modification of Custody, Parenting Time and Child Support** on **September 4, 2012 at 2:00 p.m.** (2½ hours allotted) before the Honorable Eileen Willett, located at 14264 West Tierra Buena Lane, Courtroom 124, Surprise, Arizona 85374.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are advised the Court will utilize a portion of the time for its ruling. The parties are expected to complete the trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to trial setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

Each party is directed to provide the Court with their recent paycheck stubs, W-2's, and tax returns completed at the time of the hearing.

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a Joint Pre-hearing Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days prior to the hearing.

IT IS FURTHER ORDERED that the Joint Pre-hearing Statement shall include the following attachments:

1. A current Affidavit of Financial Circumstances.

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2. A current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.

3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party.

IT IS FURTHER ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall exchange updated disclosure statements required by Rules 49 and 50, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits on or before **August 17, 2012**.

2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed no later than **August 10, 2012**.

3. Counsel and both parties shall personally meet, face to face to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution/company or business/medical or health care provider/employer possessing any relevant information.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of hearing, or to timely present the Joint Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 70(D), Arizona Rules of Family Law Procedure and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

EXHIBITS

IT IS FURTHER ORDERED that, if either party has more than 5 exhibits to be marked, arrangements shall be made with the Clerk of this Division at least five days prior to hearing to schedule a time to deliver said exhibits to the Clerk. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

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1. Counsel and/or the parties shall submit all exhibits to this Division by 5:00 p.m. on August 28, 2012. Exhibits shall not be filed at the Clerk of Court filing counter.

2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the hearing. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly or not marked at all.

3. Each exhibit shall be stapled if it contains more than one page. Each exhibit shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Do not staple the colored pages to the exhibits. Do not write or type on the colored pages. The clerk will reuse the colored pages if they are left blank. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.

4. The exhibits shall be marked in the order received. For example, if Respondent's exhibits are received first, Respondent's exhibits will be marked first, i.e., Respondent's exhibits 1 through 5, and Petitioner's exhibits will follow Respondent's exhibits in number, i.e., Petitioner's exhibits 6 through 10.

5. Duplicate exhibits shall not be presented.

6. The parties shall provide the adverse party with a separate copy of all exhibits.

Information regarding exhibits for parties not represented by counsel:

The Court does not automatically review exhibits. Each party will need to offer his/her exhibits into evidence during the hearing by stating to the Court that he/she is offering exhibit(s) 1, 2, 3, etc. The party will need to explain the relevance of each exhibit to the Court. Exhibits that are not received into evidence during the hearing will be returned to the party at the conclusion of the hearing without the Court reviewing the exhibit(s).

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-hearing Statement shall be summarily admitted.

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NOTICE

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

SETTLEMENT

IT IS FURTHER ORDERED in the event a full settlement is reached prior to the time of hearing, the parties or counsel, if represented, **shall** present the formal written Consent Decree of Dissolution, Judgment or the agreement signed and notarized by all parties, prior to 5:00 p.m. the **day prior to** the scheduled hearing [if set on the Court's morning calendar the following day, e.g., 9:00 to 11:55 a.m.] or **not later than** 9:00 a.m. on the day of hearing [if the hearing is set on the Court's afternoon calendar, e.g., 1:30 to 4:55 p.m.].

In the event the agreement has not been reduced to writing, **all parties** and their counsels, if represented, shall appear at the time designated for hearing to recite the agreement on the record and have it entered as the order of the court pursuant to *Rule 69, (Arizona Rules of Family Law Procedure hereinafter AzRFLP)*.

If the signed Consent Decree, Judgment or agreement is not received by the Court pursuant to these guidelines, and the parties and/or their respective counsels, if any, fail to appear as ordered, the Court **shall dismiss the case in its entirety, without prejudice** and the matter **will not** be reinstated but for the most compelling of reasons. See *Rule 70(B)*.

IF ONLY ONE PARTY APPEARS, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT AND/OR ISSUE A CIVIL ARREST FOR THE PARTY WHO FAILS TO APPEAR. IF BOTH PARTIES FAIL TO APPEAR, THE ENTIRE CASE MAY BE DISMISSED, WITHOUT FURTHER NOTICE TO EITHER PARTY.

11:00 a.m. Matter concludes.

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All parties representing themselves must keep the Court updated with address changes.
A form may be downloaded at: <http://www.superiorcourt.maricopa.gov>.